

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOHN RONALD ESPIE,

Petitioner,

v.

Case Number 07-12506-BC
Honorable Thomas L. Ludington

THOMAS BIRKETT,

Respondent.

OPINION AND ORDER DENYING PETITIONER'S MOTION FOR REHEARING

On July 28, 2010, the Court denied Petitioner's habeas application, finding that Petitioner's first and third claims were without merit and that his second, and fourth through tenth claims were procedurally defaulted. The Court also denied Petitioner a certificate of appealability and leave to appeal in forma pauperis. *See Espie v. Birkett*, No. 07-12506-BC, 2010 WL 2994010 (E.D. Mich. July 28, 2010). Petitioner has now filed a motion for rehearing.

Eastern District of Michigan Local Rule 7.1(h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will generally not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999). To prevail, the moving party must demonstrate a palpable defect by which the court and the parties have been misled and that correcting the error would lead to a different result. E.D. Mich. L.R. 7.1(h)(3). "A 'palpable defect' is a defect that is obvious, clear, unmistakable, manifest, or plain." *See Scozzari v. City of Clare*, --- F. Supp. 2d ----, No. 08-10997-BC, 2010 WL 2633723 (E.D. Mich. June 29, 2010).

In the present case, Petitioner has made a number of lengthy arguments in support of his motion for rehearing. All of these arguments were considered by this Court, however, either

expressly, or by reasonable implication, when the Court denied the petition for writ of habeas corpus and denied Petitioner a certificate of appealability and leave to appeal in forma pauperis. Petitioner's motion for rehearing will therefore be denied, because Petitioner is merely presenting issues which were already addressed by this Court, either expressly or by reasonable implication, in the earlier opinion. *See Hence*, 49 F. Supp. 2d at 553.

Accordingly, it is **ORDERED** that the motion for rehearing [Dkt. # 17] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: September 7, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 7, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS